Chapter 173-184 WAC

VESSEL OIL TRANSFER ADVANCE NOTICE AND CONTAINMENT REQUIREMENTS

PART A: GENERAL REQUIREMENTS

NEW SECTION

WAC 173-184-010 Applicability of this chapter. (1) Except as provided in subsection (2) of this section, this chapter applies to all vessels delivering oil in bulk on or over the waters of the state to the following persons:

(a) Tank vessels;

(b) Cargo vessels;

(c) Passenger vessels;

(d) Any other nonrecreational vessels; or

(e) Class 1, 2, and 3 facilities.

(2) This chapter does not apply to:

(a) An oil spill recovery vessel that is engaged in spill response activities;

(b) Emergency lightering of vessels to mitigate further damage;

(c) A vessel's internal oil transfers;

(d) Vacuum trucks used to remove waste oil, bilge slops, contaminated ballast or fuel, or excess fuels intended for shoreside disposal;

(e) Public vessels; and

(f) Fuel transfers from tug to barge for operation of installed machinery.

NEW SECTION

WAC 173-184-015 Purpose. (1) This chapter establishes minimum standards for safe oil transfers to meet a zero spill goal established by the legislature. This chapter emphasizes:

(a) Using a scaled approach that sets standards for safe oil transfers to protect people and the environment;

(b) That it is the obligation of vessel and facility owners and operators to adopt company policies that improve the safety of oil transfers;

(c) Minimizing the size and impacts of those oil spills which do occur.

(2) A second purpose of this chapter is the further implementation of chapter 88.46 RCW to regulate the transfer of oil on or over waters of the state.

NEW SECTION

WAC 173-184-020 Authority. (1) The legislature granted ecology the authority to adopt and enforce these rules regulating the transfer of oil on or over waters of the state under RCW 88.46.160 and 88.46.165.

(2) The owner or operator of any vessel involved in an oil transfer over state waters must allow ecology access for the purposes of ensuring compliance with the requirements of this chapter.

NEW SECTION

WAC 173-184-025 Definitions. Unless the context clearly requires otherwise, the definitions in chapter 317-05 WAC and the following apply to this chapter:

(1) "Boatyard" means a class 4 facility which builds, repairs, or refurbishes nonrecreational vessels under three hundred gross tons, regardless of fuel capacity.

(2) "Boom" means flotation boom or other effective barrier containment material suitable for containment of oil that is discharged onto the surface of the water.

(3) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(4) "Bunkering" means a bulk oil transfer operation to replenish a self-propelled vessel with fuel or lubricating oil.

(5) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(6) "Class 1 facility" means a facility as defined in RCW 90.56.010 as:

(a) Any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock

while transporting oil over the highways or rail lines of this state;

(ii) Underground storage tank regulated by ecology or a local government under chapter 90.76 RCW;

(iii) Motor vehicle motor fuel outlet;

(iv) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or

(v) Marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(7) "Class 2 facility" means a railroad car, motor vehicle, portable device or other rolling stock, while not transporting oil over the highways or rail lines of the state, used to transfer oil to a nonrecreational vessel.

(8) "Class 3 facility" means a structure that:

(a) Transfers to a nonrecreational vessel with a capacity of ten thousand five hundred or more gallons of oil whether the vessel's oil capacity is used for fuel, lubrication oil, bilge waste, or slops or other waste oils;

(b) Does not transfer oil in bulk to or from a tank vessel or pipeline; and

(c) Does not include any: Boatyard, railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; underground storage tank regulated by ecology or a local government under chapter 90.76 RCW; or a motor vehicle motor fuel outlet; a facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330.

(9) "Class 4 facility" means a structure that:

(a) Is a marina, boatyard, marine fueling outlet and other fueling installations that transfers to a nonrecreational vessel with a capacity to hold less than ten thousand five hundred gallons of oil whether the vessel's oil capacity is used for fuel, lubrication oil, bilge waste, or slops or other waste oil;

(b) Does not transfer oil in bulk to or from a tank vessel or pipeline; and

(c) Does not include any: Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; underground storage tank regulated by ecology or a local government under chapter 90.76 RCW; or a motor vehicle motor fuel outlet; or a facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330.

(10) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(11) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping regardless of quantity.

(12) "Ecology" means the department of ecology.

(13) "Gross ton" means a vessel's approximate volume as

defined in Title 46, United States Code of Federal Regulations (CFR), Part 69.

(14) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(15) "Nonrecreational vessel" means any vessel that is not a recreational vessel as defined in this section.

(16) "Oil" or "oils" means any naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 CFR Part 302 adopted August 14, 1989, under section 101(4) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

(17) "Owner" or "operator" means:

(a) In the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

(b) In the case of an onshore or offshore facility, any person owning or operating the facility;

(c) In the case of an abandoned vessel, onshore, or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment; and

(d) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(18) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(19) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, co-partnership, association, firm, individual, ship, or any other entity whatsoever.

(20) "Person in charge" or "PIC" means a person qualified and designated as required under 33 CFR 155, for vessels, 33 CFR 154 for class 1, 2, or 3 facilities, or if not designated, the person with overall responsibility for oil transfer operations.

(21) "Personnel" means individuals employed by, or under contract with a facility or vessel.

(22) "Public vessel" means a vessel that is owned, or demise chartered, and is operated by the United States government, or a government of a foreign country, and is not engaged in commercial service.

(23) "Recreational vessel" means a vessel owned and operated only for pleasure with no monetary gain involved and if

leased, rented, or chartered to another for recreational use is not used for monetary gain. This definition applies to vessels such as house boats, ski boats, and other small craft on a rental or lease agreement.

(24) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(25) "Spill" means an unauthorized discharge of oil into the waters of the state.

(26) "State" means the state of Washington.

(27) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(28) "Transfer" means any movement of oil in bulk to or from a nonrecreational vessel or transmission pipeline.

(29) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

NEW SECTION

WAC 173-184-030 Inspections. (1) Ecology may verify compliance with this chapter by announced and unannounced inspections in accordance with chapter 88.46 RCW.

(2) To ensure compliance with this chapter, ecology may ask for documents required by this chapter.

(3) Ecology will provide an inspection report to the vessel at the conclusion of the inspection.

NEW SECTION

WAC 173-184-035 Drill credit. The owner or operator may request that performance under applicable sections of this chapter be credited for portions of the contingency plan drill requirements.

NEW SECTION

WAC 173-184-040 Noncompliance. Any violation of this chapter may be subject to enforcement and penalty sanctions of chapter 88.46 RCW.

NEW SECTION

WAC 173-184-045 Owner and operator responsibilities. Owners and operators of delivering vessels conducting oil transfer operations must ensure that the requirements in this chapter are implemented and followed.

NEW SECTION

WAC 173-184-050 Severability. If any provision of this chapter is held invalid, the remainder of the chapter is not affected.

PART B: OIL TRANSFER REQUIREMENTS FOR ALL DELIVERING VESSELS

NEW SECTION

WAC 173-184-100 Advance notice of transfer. (1) The delivering vessel (or designee) involved in an oil transfer of more than one hundred gallons must provide prior notice of the oil transfer to ecology. The notice must be provided in the time frame set forth by the applicable Coast Guard captain of the port.

(2) The notice of transfer must be submitted to ecology on the Advanced Notice of Transfer form provided by ecology, a

facsimile, or an equivalent form that contains the following information:

(a) Company name, address, contact person and telephone number of organization delivering the oil;

(b) Date of transfer operation, estimated starting time, and duration of the oil transfer operation;

(c) Name of delivering vessel and receiving vessel or class 1, 2, or 3 facility involved in the oil transfer, including Lloyd's Register/International Maritime Organization number or official number if available;

(d) City name and either the address or location/anchorage where the oil transfer operation will occur;

(e) Oil product type and quantity in gallons or barrels; and

(f) Whether or not prebooming will take place? (yes or no).

(3) Notification may be made by the delivering vessel's agent or other contracted representative.

(4) The notification form may be submitted via internet web site established by ecology, by e-mail, or by facsimile. The notification form and contact information are found on ecology's web site:

http://www.ecy.wa.gov/programs/spills/spills.html.

(5) Compliance schedule: All delivering vessels must begin submitting advance notice within thirty calendar days of the effective date of this chapter.

NEW SECTION

WAC 173-184-105 Equivalent compliance plan. (1) Any owner or operator may submit a proposal for equivalent compliance for the alternative measures required in WAC 173-184-115 and 173-184-120. Any owner or operator who submits a proposal must preboom or meet the alternative measures until the equivalent compliance plan is approved.

(a) Rate A (see WAC 173-184-110) deliverers may only submit an equivalent compliance plan proposal for alternative measures found in WAC 173-184-115(7).

(b) Rate B deliverers may only submit an equivalent compliance plan proposal for alternative measures found in WAC 173-184-120(2).

(2) The proposal must contain the following and in the order presented:

(a) Cover sheet with name of company seeking equivalent compliance and point of contact information;

(b) Table of contents including supporting documents and appendices;

(c) Executive summary of the equivalent proposal;

(d) A detailed description of the equivalent proposal that includes, when appropriate, the equipment, personnel, operating procedures, and maintenance systems and any other alternatives that are being proposed;

(e) A detailed analysis of how the proposal offers equivalent or greater level of protection as compared to the requirements in this chapter. This includes:

(i) Methodology of the analysis;

(ii) Detailed results with supporting data, references, graphs, tables, pictures, and other relevant information; and

(iii) Technical feasibility of proposal versus current requirements.

(3) Submission timeline of proposed equivalent compliance plan. The owner or operator must submit the equivalent compliance proposal to ecology at least one hundred twenty calendar days before planned operation under this section.

(a) Ecology will make the proposal available for a thirty-calendar-day public review and comment period;

(b) Ecology may request additional information regarding any aspect of the proposal such as site-specific meteorological, water current velocity, and other monitoring data to support the proposal;

(c) Ecology will respond to the owner or operator within ninety calendar days of receipt of the proposal with a letter approving, conditionally approving, or disapproving the proposal; and

(d) The approval will be valid for no more than five years from the date on the approval letter.

(4) Approval of proposed equivalent compliance plan. Ecology may approve the equivalent compliance proposal if, based upon the documents submitted and other information available to the agency, it finds that:

(a) The equivalent compliance proposal is complete and accurate; and

(b) The equivalent compliance proposal would provide an equivalent or greater level of environmental protection as the alternative measures required in WAC 173-184-115 and 173-184-120.

(5) Ecology may reconsider an approval, or conditional approval, at any time after a response to a significant oil spill by the company.

(6) The owner or operator must submit one paper copy and one electronic copy of the proposal to ecology:

The Department of Ecology
Spill Prevention, Preparedness, and Response Program
Equivalent Compliance Review

P.O. Box 47600
Olympia, WA 98504-7600
Or
The Department of Ecology
Spill Prevention, Preparedness, and Response Program
Equivalent Compliance Review
300 Desmond Drive
Lacey, WA 98503

NEW SECTION

WAC 173-184-110 Transfer containment and recovery requirements. (1) These standards apply to all oil transfers that involve any jet fuels, diesels, heating oils, and any other oils that are recoverable when spilled to water. These standards do not apply to vessels delivering gasoline, aviation gasoline, and other highly volatile products with similar characteristics.

(2) The deliverer must first determine the rate at which oil is to be transferred and then follow the applicable standards outlined in this chapter:

(a) Rate A: Oil transfer operations at a rate over five hundred gallons per minute. Rate A requirements are found in WAC 173-184-115.

(b) Rate B: Oil transfer operations at a rate of five hundred gallons per minute or less. Rate B requirements are found in WAC 173-184-120.

(3) To meet the requirements of this chapter, the deliverer must have personnel trained in the proper use and maintenance of boom and recovery equipment.

(4) All boom and associated equipment, including the equipment used to deploy the boom, must be of the appropriate size and design for the environmental conditions encountered in the transfer area based on the manufacturer's specifications.

NEW SECTION

WAC 173-184-115 Rate A prebooming and Rate A alternative measures requirements. (1) The Rate A deliverer must preboom oil transfers when it is safe and effective to do so. When prebooming is not safe and effective, the deliverer must meet the alternative measure requirements found in subsection (7) of this section.

(2) The determination of safe and effective must be made prior to starting a transfer, or if conditions change, during a transfer. This safe and effective determination must use the following threshold values:

(a) Transfers at a class 1 facility must use the class 1 facility's values found in the facility's operations manual - see WAC 173-180-420.

(b) Transfers that do not occur at class 1 facilities must use the values found in the vessel's approved report submitted in accordance with WAC 173-184-130, the Safe and effective threshold determination report.

(3) When it is not safe and effective or when conditions develop during a preboomed transfer which requires removal of the boom, the Rate A deliverer must report this finding to ecology and meet the alternative measures found in subsection (7) of this section. The Ecology Boom Reporting form must be used for this purpose, and submitted by e-mail or facsimile prior to the transfer and/or immediately when conditions have changed.

(4) If multiple oil transfers are occurring simultaneously with a single vessel and one product transferred is not appropriate to preboom, then that portion of the transfer where it is unsuitable to preboom must meet the alternative measures found in subsection (7) of this section.

(5) For the purposes of this section, the deliverer must be able to quickly disconnect all boom in the event of an emergency.

(6) Rate A prebooming requirements.

(a) In order to preboom transfers, the deliverer must have access to boom four times the length of the largest vessel involved in the transfer or two thousand feet, whichever is less. The deliverer must deploy the boom such that it completely surrounds the vessel(s) and facility/terminal dock area directly involved in the oil transfer operation, or the portion of the vessel and transfer area that provides for maximum containment of any oil spilled.

(i) The boom must be deployed with a minimum stand-off of five feet away from the sides of a vessel measured at the waterline. This stand-off may be modified for short durations needed to meet a facility or ship's operational needs.

(ii) The deliverer must check the boom positioning periodically and adjust the boom as necessary throughout the duration of the transfer and specifically during tidal changes and significant wind or wave events.

(b) In addition to prebooming, the deliverer must have the following recovery equipment available on-site:

(i) Containers suitable for holding the recovered oil and oily water;

(ii) Nonsparking hand scoops, shovels, and buckets; and

(iii) Enough sorbent materials and storage capacity for a seven barrel oil spill appropriate for use on water or land.

(c) For preboomed transfers: Within one hour of being made aware of a spill the deliverer must be able to complete deployment of the remaining boom should it be necessary for containment, protection, or recovery purposes.

(7) Rate A alternative measures. Rate A deliverers must use these alternative measures when it is not safe and effective to meet the prebooming requirements:

(a) To meet the alternative measures requirements the deliverer must have access to boom four times the length of the largest vessel involved in the transfer or two thousand feet, whichever is less.

(b) In addition to the boom, the deliverer must have the following recovery equipment available on-site:

(i) Containers suitable for holding the recovered oil and oily water;

(ii) Nonsparking hand scoops, shovels, and buckets; and

(iii) Enough sorbent materials and storage capacity for a seven barrel oil spill appropriate for use on water or land.

(c) The deliverer must have the ability to safely track an oil spill in low visibility conditions. The tracking system must be on-scene within thirty minutes of being made aware of the spill.

(d) For alternative measures: Within one hour of being made aware of a spill the deliverer must be able to completely surround the vessel(s) and facility/terminal dock area directly involved in the oil transfer operation or the portion of the vessel and transfer area that provides for maximum containment of any oil spilled.

(e) For alternative measures: Within two hours of being made aware of a spill, the deliverer must have the following:

(i) Additional boom four times the length of the largest vessel involved in the transfer or two thousand feet, whichever is less, available for containment, protection, or recovery; and

(ii) A skimming system must be on-site. The skimming

system must be in stand-by status and be capable of fifty barrels recovery and one hundred barrels of storage.

NEW SECTION

WAC 173-184-120 Rate B prebooming and alternative measures requirements. (1) Rate B prebooming requirements. The Rate B deliverer must choose to meet either the following prebooming requirements or the alternative measures found in subsection (2) of this section. If prebooming is chosen then:

(a) Prior to starting the oil transfer operation the deliverer must deploy boom so that it completely surrounds the vessel(s) and facility/terminal dock area directly involved in the oil transfer operation, or the deliverer may preboom the portion of the vessel and transfer area which will provide for maximum containment of any oil spilled into the water.

(i) The deliverer must deploy the boom with a minimum stand-off of five feet away from the sides of a vessel, measured at the waterline. This stand-off may be modified for short durations needed to meet a facility or ship's operational needs;

(ii) The deliverer must periodically check boom positioning and adjust the boom as necessary throughout the duration of the transfer and specifically during tidal changes and significant wind or wave events.

(b) In addition, the deliverer must have the following recovery equipment available on-site:

(i) Containers suitable for holding the recovered oil and oily water;

(ii) Nonsparking hand scoops, shovels, and buckets; and

(iii) Enough sorbent materials and storage capacity for a two barrel oil spill appropriate for use on water or land.

(c) For prebooming: Within one hour of being made aware of a spill, the deliverer must be able to completely deploy an additional five hundred feet of boom. This boom may be used for containment, recovery, or protection.

(2) The Rate B alternative measures requirements. If a Rate B deliverer chooses alternative measures, then:

(a) Prior to starting the oil transfer operation the deliverer must have access to boom sufficient to completely surround the vessel(s) and facility/terminal dock area directly involved in the oil transfer operation, or the deliverer may preboom the portion of the vessel and transfer area which will provide for maximum containment of any oil spilled into the water.

(b) In addition, the deliverer must have the following

recovery equipment available on-site:

(i) Containers suitable for holding the recovered oil and oily water;

(ii) Nonsparking hand scoops, shovels, and buckets; and

(iii) Enough sorbent materials and storage capacity for a two barrel oil spill appropriate for use on water or land.

(c) For alternative measures: Within one hour of being made aware of a spill the deliverer must be able to complete deployment of an additional five hundred feet of boom for containment, protection or recovery.

(d) For alternative measures: Within two hours of being made aware of a spill, the deliverer must have an additional five hundred feet of boom available on-scene for containment, protection, or recovery.

NEW SECTION

WAC 173-184-125 Compliance schedule for prebooming and alternative measures for Rate A and Rate B transfers. (1) Any delivering vessel conducting Rate A transfers must meet all the applicable requirements in WAC 173-184-110 and 173-184-115 except WAC 173-184-115(6) within one hundred twenty calendar days of the effective date of this chapter.

(2) All Rate A transfers must meet the requirements of WAC 173-184-115(6) within three hundred sixty-five calendar days from the effective date of the chapter.

(3) Any delivering vessel conducting Rate B transfers must meet all the applicable requirements in WAC 173-184-110 and 173-184-120 within one hundred twenty calendar days from the effective date of this chapter.

NEW SECTION

WAC 173-184-130 Safe and effective threshold determination report. This section applies to delivering vessels conducting Rate A transfers at locations other than class 1 facilities.

(1) **Report requirements.** The report must include, at a minimum, the following in the order presented:

(a) Cover sheet with name of company submitting the report and point of contact information;

(b) Table of contents including supporting documents and appendices;

(c) Summary of safe and effective threshold values; and

(d) The body of the report must include the following:

(i) Information used to support these values must be based upon on-site environmental monitoring data recorded at specific times, dates, and locations; and

(ii) These values and the supporting data must address, at a minimum, the following site-specific information:

(A) Personnel safety;

(B) Sea state values in feet including typical wave periods;

(C) Water current velocity such as peak currents, sustained currents in hourly increments, and direction of flow, during typical oil transfer operations;

(D) Wind speed in knots, and prevailing directions; and

(E) Other conditions such as vessel traffic, fishing activities, and other factors that influence the oil transfer operation.

(iii) The owner or operators must provide a detailed analysis of the proposed threshold values for the transfer location including:

(A) Methodology of the analysis;

(B) Equipment used to measure data collected; and

(C) Supporting data, references, graphs, tables, pictures, and other relevant information.

(2) **Submittal requirements.** Owners or operators of delivering vessels that conduct Rate A transfers must submit a report to ecology for review and approval for each location at which a Rate A transfer occurs.

One paper and one electronic copy of the threshold determination report and appendices must be delivered to:

The Department of Ecology
Spill Prevention, Preparedness, and Response Program
Threshold Determination Report
P.O. Box 47600
Olympia, WA 98504-7600

(3) **Review and approval process.**

(a) When reviewing threshold determination reports, ecology must consider the following:

(i) Personnel safety;

(ii) Operating environment of the transfer location(s) such as site-specific meteorological, water current velocity, and other monitoring data to support the threshold determination;

(iii) Accepted industry standards regarding the performance of boom and associated response equipment in various operating environments;

(iv) Types of oil transfer operations including bunkering, cargo operations, transfer rates, and other factors that influence oil transfers.

(b) Ecology will make the report available for a thirty-

calendar-day public review and comment period.

(c) Ecology will respond to the owner or operator within ninety calendar days of receipt of the threshold determination report with a letter approving, conditionally approving, or disapproving the report.

(d) The approval of this report will be valid for no more than five years from the date on the approval letter.

(e) Ecology may require a new review and approval process for this report after a spill by the vessel.

(4) **Compliance and submittal schedule.**

(a) Safe and effective threshold determination report must be submitted within one hundred eighty calendar days after the effective date of this chapter.

(b) Rate A deliverers that begin operating in Washington waters after the effective date of this chapter must submit the report at least one hundred twenty calendar days prior to the first oil transfer operation.